

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMIE D. PACELY,

Petitioner,

v.

MARK K. WILLIAMS,

Respondent.

Case No. 1:18-CV-344

MEMORANDUM ORDER

This habeas action was received by the Clerk of Court on November 1, 2018, and was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

In his petition for a writ of habeas corpus [ECF No. 1-2 at 2-28], Petitioner, who is a federal prisoner incarcerated at FCI McKean, claimed that he is being unconstitutionally detained by the United States. In his answer [ECF No. 5], Respondent contended that the petition must be dismissed. Petitioner did not file a reply.

On March 7, 2019, Magistrate Judge Lanzillo issued a Report and Recommendation [ECF No. 7] recommending that the Court dismiss the petition because none of the claims he raised are the type that he can litigate in habeas action under 28 U.S.C. § 2241 and because Petitioner has a motion to vacate pursuant to 28 U.S.C. § 2255 pending in his underlying criminal case. Petitioner did not file objections.

After *de novo* review of all of the pleadings in this action, together with the report and recommendation, the following order is entered:

AND NOW, this 27th day of March, 2019;

IT IS ORDERED that the petition for a writ of habeas corpus is DISMISSED;

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on March 7, 2019 [ECF No. 7] is adopted as the opinion of the court.

IT IS FURTHER ORDERED the Clerk of Court shall mark this case CLOSED.

/s/ Susan Paradise Baxter

SUSAN PARADISE BAXTER
United States District Judge